

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Westfield Insurance Company,

Civil Action No.: _____

Interpleader Plaintiff,

vs.

State Farm Fire and Casualty Company,
Barry Bonoff, Terry Brown and Shirley
Brown, Warren Bruland and John
Lemoine, James Clark, John Denzer,
Kyle Edlund and Beth Edlund, Phyllis
Eklund, Daniel Fitzgerald and Diane
Fitzgerald, Orlando Fladmark and Arlene
Fladmark, Joel Halvorson and Carol
Frissell, William Hatfield and Mary
Hatfield, Donald Hemphill and Carol
Hemphill, Matthew Lykken and Joseph
Lykken, Carol Lyon, Scott Schilling,
Robert Swanson and Yvonne Swanson,
Roger Thompson and Donna Thompson,
Edwin Wright and Janice Wright,
Universal Property Insurance Company,
Travelers Insurance Company, XYZ
Corporations and John Doe and Mary
Roe, whose names are unknown to
Plaintiff,

COMPLAINT FOR INTERPLEADER
AND DECLARATORY RELIEF

Interpleader Defendants.

I.

This is an action in interpleader brought under 28 U.S.C. §§ 1335, 1397 and 2361.

II.

Plaintiff Westfield Insurance Company is, and all times hereafter mentioned was, an insurance company organized and existing under the laws of the State of Ohio and having its principal place of business in the State of Ohio.

III.

Defendant State Farm Fire and Casualty is an insurance company organized and existing under the laws of the State of Illinois with its principal place of business at One State Farm Plaza Bloomington, Illinois, 61710, where it may be served with process of this Court.

IV.

Defendant Universal Property Insurance Company is an insurance company organized and existing under the laws of the State of Delaware with its principal place of business at 1110 W. Commercial Boulevard, Suite 300, Fort Lauderdale, Florida, 33309, where it may be served with process of this Court.

V.

Defendant Travelers Insurance is an insurance company organized and existing under the laws of the State of Minnesota with its principal place of business in Hartford Connecticut. It may be served with process in this matter of this Court at Stich, Angell, Kreidler & Dodge, P.A., ATTN: Michael S. Kreidler, The Crossings, Suite 120, 250 Second Avenue South, Minneapolis, MN 55401.

VI.

Two or more adverse claimants in this action are of diverse citizenship, and the amount in controversy exceeds \$500.00 as hereinafter more fully appears. The Court has jurisdiction of this cause under 28 U.S.C. § 1335, and venue is proper in the District Court Division.

VII.

Effective September 1, 2006, Plaintiff Westfield Insurance Company issued to Stephen G. Posniak a homeowner's insurance policy, No. HOP-219 8274, covering liability and the cost of defending claims arising from bodily injury or property damage. Said policy limited Plaintiff Westfield Insurance Company's liability at \$100,000. A true and correct copy of the declarations page for said policy is attached and labeled as Exhibit 1 and incorporated herein by reference.

VIII.

On or about October 20, 2008, Stephen Posniak was indicted in federal court on three counts for willfully starting a wild fire in the Superior National Forest in Minnesota on or about May 5, 2007, resulting in approximately \$11,000 million in fire-suppression costs. A true and correct copy of that indictment is attached hereto and labeled as Exhibit 2 and incorporated by reference herein.

IX.

On or about October 28, 2008, State Farm Insurance Companies sent a letter to Stephen Posniak informing him that 20 claims for property damage had been made under insurance policies issued by State Farm Fire and Casualty Company and notifying him of a potential claim against him. The letter further alleged that State Farm had paid \$1,670,193.04 as a result of the fire and that many of the claimants had losses in excess of their policy limits. A true and correct copy of that letter is attached hereto and labeled as Exhibit 3 and incorporated by reference herein.

X.

On or about November 24, 2008, Stephen Posniak and Jane Comings filed with Westfield Insurance a General Liability Notice of Occurrence/Claim based on the federal indictment and the October 28 notice from State Farm. A true and correct copy of that notice is attached hereto and labeled as Exhibit 4 and incorporated by reference herein.

XI.

If the Estate of Stephen G. Posniak is liable to the named defendants and other unnamed defendants who are not known to Plaintiff, Plaintiff Westfield Insurance Company is in doubt about who should be paid.

XII.

Unless all named and unnamed Defendants are restrained and enjoined from prosecuting a claim against Plaintiff Westfield Insurance Company, either directly or indirectly, and from any effort to collect from Plaintiff Westfield Insurance Company any judgments rendered as a result of any such claim, Plaintiff may be subjected to double or multiple liability. This matter therefore falls within the purview of 28 U.S.C. § 2361.

WHEREFORE, Interpleader Plaintiff Westfield Insurance Company respectfully requests that:

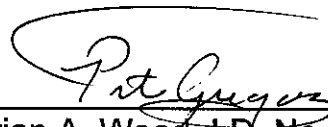
1. The Court enter an Order providing that upon payment by Interpleader Plaintiff Westfield Insurance Company into the registry of this Court the sum of \$100,000.00, the amount due under the terms and provisions of the policy for property damage resulting from the fires allegedly set by Stephen Posniak, Interpleaders Defendants, both named and unnamed, are perpetually enjoined and restrained from instituting or prosecuting further any proceeding in any State or United States court against Westfield Insurance Company arising from Stephen Posniak's actions in allegedly setting a wildfire in Minnesota in May 2007.

2. Interpleader Plaintiff Westfield Insurance Company be awarded reasonable and proper attorneys' fees and court costs in connection with the filing of this Complaint for Interpleader.

3. The Court award any other relief it deems just and proper.

Lind, Jensen, Sullivan & Peterson
A Professional Association

Dated: October 26, 2009



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